

**LEGISLATIVE SERVICES AGENCY
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FISCAL IMPACT STATEMENT

LS 7507

BILL NUMBER: HB 1660

NOTE PREPARED: Jan 24, 2005

BILL AMENDED:

SUBJECT: Securities division.

FIRST AUTHOR: Rep. Messer

BILL STATUS: As Introduced

FIRST SPONSOR:

FUNDS AFFECTED: X **GENERAL**
DEDICATED
FEDERAL

IMPACT: State

Summary of Legislation: This bill has the following provisions:

(A) It makes various amendments to the law concerning securities regulation.

(B) It changes the:

- (1) time that an application for registration by coordination automatically becomes effective from ten days to 30 days; and
- (2) method of selection of home and branch offices for completion of compliance reports.

(C) It changes the requirements for certain exemptions from registration.

(D) It removes a provision involving the dismissal of certain Secretary of State employees.

(E) It provides that:

- (1) enforcement attorneys and prosecution assistance unit attorneys are members of the enforcement department of the securities division;
- (2) employees of the securities division may disclose information to other law enforcement agencies;
- (3) a person who violates the securities law and has not filed a consent with the secretary of state is considered to appoint the secretary of state as an agent for service of process concerning noncriminal actions or proceedings against the person;
- (4) the securities commissioner may adopt rules and issue orders regarding service of process for nonregistered persons;

- (5) the securities commissioner shall determine the amount of a bond for an appeal;
- (6) an appellant shall pay costs associated with the certifying and delivering of transcripts; and
- (7) a court may consider only issues of law for an appeal of an order by the securities commissioner.

Effective Date: July 1, 2005.

Explanation of State Expenditures: *Summary:* This bill could decrease expenditures of the Securities Division of the Secretary of State (SOS). The exact savings is indeterminable. By removing sections of the Indiana Code that place limits or qualifications on the administrative duties of the Securities Commissioner and the Secretary of State, the bill would allow flexibility that, depending on the actions of the Commissioner and the Secretary, would reduce administrative costs. Some specific examples of these cost savings are presented below.

Provision (B)(2): Current law provides that the SOS shall randomly audit at least 25% of the registered broker-dealers that have offices in the state. This bill would allow the SOS more flexibility in the auditing process by not capping the number of audits, and not requiring the audits be random. This provision would allow the SOS to audit more or less than 25% of the dealers, as well as allowing the SOS to concentrate on the specific segments within the market.

Provision (D): Currently the SOS may dismiss an employee only for cause and after having given 10 days written notice of the reason for dismissal. Also, the employee currently has 15 days to appeal to the state Personnel Board. This bill removes these sections. The fiscal impact of removing these sections will depend upon the actions of the SOS.

Provision (E)(3): By allowing the SOS to serve as the agent for service of process, notice of the hearing can be accomplished through certified mail rather than through publication. The exact amount of savings depends on what the cost of publication would have been versus the cost of sending a letter by certified mail. Certified mail usually costs between \$5 and \$10. The cost of notice by publication is unknown, but would depend upon where publication would be required.

Provision (E)(6): Under the bill, the appellant would be required to pay the costs associated with the certifying and delivering of transcripts. To the extent that the appellant rather than the Commissioner pays for these costs, savings would accrue to the state General Fund.

Explanation of State Revenues: *Provision (E)(5):* This provision allows the SOS to set the bond for appeal at any amount needed. Current law limits the bond amount to \$500. Any increase in revenues will depend upon the amount of the bond and whether the defendant chooses to appear in court. If a defendant does not appear, the amount of the bond is then used to reimburse the SOS for expenses incurred in bringing the action.

Explanation of Local Expenditures:

Explanation of Local Revenues:

State Agencies Affected: Secretary of State.

Local Agencies Affected:

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